

03.01.2022
Court No.32
Item No. 53
Avijit Mitra

C.R.M. 8220 of 2021

In Re:- An application for bail under section 439 of the Code of Criminal Procedure;

And

In Re : Minarul Sk @ Mina

.... petitioner

Mr. Sabir Ahmed,
Mr. Mujibar Ali Naskar

...for the petitioner

Mr. Sujan Chatterjee

...for the State

After languishing in custody for about 236 days, the present application under Section 439 of the Code of Criminal Procedure is filed praying for bail in connection with Kaliganj Police Station Case No.468 of 2020 dated October 6th 2020 under Sections 363/365/34 of the Indian Penal Code subsequently added sections 363/365/376(3)/34 of the Indian Penal Code and read with Section 6 of the Protection of Children from Sexual Offences Act.

Mr. Ahmed, learned lawyer for the petitioner submitted, that there was a love affair between the petitioner and the victim girl. Nothing was forceful in between them. There was consensual relationship between the victim girl and the present petitioner. Investigation is complete. Chargesheet has been filed but charge has not yet been considered. He also submitted that the victim girl

refused medical examination. Further detention, therefore, is unnecessary. Accordingly, bail is prayed for.

Per contra, Mr. Chatterjee, learned lawyer representing the State submitted that strong incriminating elements are there against the present petitioner. The victim was a minor and whatever may be said as consent is not a consent at all since the victim is now 16 years old. Accordingly, bail application is strongly opposed.

We have heard the rival submissions and perused the case diary. Materials available on record shows that the victim is a minor and there are materials importing sexual elements into the relationship. Charge is yet to be considered and victim girl is yet to be examined. Possibility of influencing the victim girl cannot be ruled out at this stage. Considering the seriousness of the allegation, we are not inclined to exercise our discretion and accordingly the bail application is refused at this stage.

However, we direct the learned Trial Court to consider the charge, if not done, within a period of one month from the date of communication of this order and to expedite trial subsequently.

The application for bail, being CRM No.8220 of 2021, is rejected.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Sugato Majumdar, J)

(Tapabrata Chakraborty, J)

